



Federal Communications Commission
Washington, D.C. 20554

November 30, 2010

DA 10-2264

Via Certified Mail, Return Receipt Requested

Aleki Sene, Executive Director
American Samoa Telecommunications Authority
Fagatogo Road
ASTCA Main Office Bldg.
PO Box M
Pago Pago, AS 96799

**Re: Final Bid Withdrawal Payment for Bids on Auction 71 Licenses CW-BTA492-D,
CW-BTA492-E, and CW-BTA492-F**

DO NOT DISCARD THIS IMPORTANT NOTICE
OF A DEMAND FOR PAYMENT
OF A DEBT OWED THE UNITED STATES AND ORDER OF PAYMENT

Dear Mr. Sene:

This Order provides notice and demands payment of a debt owed to the United States based on American Samoa Telecommunications Authority's withdrawal of high bids placed during the course of Auction 71.

American Samoa Telecommunications Authority ("ASTCA") withdrew high bids during Auction 71 for three broadband Personal Communications Services ("PCS") licenses in the American Samoa Basic Trading Area (CW-BTA492-D, CW-BTA492-E, and CW-BTA492-F). Thus, pursuant to the Commission's rules,¹ ASTCA owes a bid withdrawal payment, which is a debt owed to the United States.² In 2007, the Commission assessed ASTCA an interim bid withdrawal payment of \$63,750.00, from the monies it had on deposit.³ Licenses for the same spectrum were offered in a subsequent auction of broadband PCS licenses (Auction 78), and because they received winning bids,⁴ the Commission is

¹ See 47 C.F.R. § 1.2104(g)(1).

² See 31 U.S.C. § 3701(b)(1).

³ See "Auction of Broadband PCS Spectrum Licenses Closes; Winning Bidders Announced for Auction No. 71," *Public Notice*, 22 FCC Rcd 9247 (WTB 2007).

⁴ See "Auction of AWS-1 and Broadband PCS Licenses Closes; Winning Bidders Announced for Auction 78," *Public Notice*, 23 FCC Rcd 12,749 (WTB 2008).

now able to calculate ASTCA's final bid withdrawal payment obligation with respect to its withdrawn bids in Auction 71.⁵

Under the Commission's rules, a bidder that withdraws a high bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.⁶ Under the rule in effect at the time of Auction 71, if a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder is required to make an interim payment equal to fifteen percent (15%) of the net amount of the withdrawn bid.⁷ This payment amount is deducted from any upfront payments or down payments deposited for the withdrawing bidder's account with the Commission.⁸ If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment is assessed, and, upon appropriate request, the Commission refunds the interim fifteen percent (15%) payment.⁹ If, in a subsequent auction, the winning bid for that license is less than the bidder's withdrawn amount, then the bidder is required to make a final bid withdrawal payment equal to either the difference between the bidder's net withdrawn bid and the subsequent net winning bid, or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid, whichever is less.¹⁰

As shown in Attachment A, in accordance with section 1.2104(g)(1) of the Commission's rules,¹¹ we have completed the final bid withdrawal payment calculation and, after applying any interim bid withdrawal payment or monies ASTCA has on deposit, ASTCA owes an outstanding balance of \$205,250.00. This debt to the United States is payable in full and without further demand within 30 days of the date of this Order in accordance with the Notice Information provided below and Payment Instructions in Attachment B.

Important Notice Information

The following provides notification of procedures and information required by the Debt Collection Improvement Act of 1996 ("DCIA").¹² The outstanding balance shown in Attachment A is a debt ASTCA owes to the United States. It is payable in full and without further demand, and payment

⁵ 47 C.F.R. § 1.2104(g)(1).

⁶ *Id.*

⁷ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5563 at n.51 (1994); "Auction of Broadband PCS Spectrum Scheduled for May 16, 2007, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction 71," *Public Notice*, 22 FCC Rcd 475 (WTB 2007).

⁸ See 47 C.F.R. § 1.2106(d) and (e).

⁹ 47 C.F.R. § 1.2104(g)(1).

¹⁰ *Id.*

¹¹ *Id.*

¹² Public Law 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996) *codified in relevant part at* 31 U.S.C. §§ 3716 (administrative offset) and 3717 (interest and penalty on claims); *see also* 47 C.F.R. §§ 1.1911, 1.1912, and 1.1940.

must be received no later than the payment due date, which is 30 days from the date of this Order (“Due Date”).¹³ Any portion of the debt unpaid at the end of the Due Date will be considered delinquent and administrative charges (incurred for processing and handling delinquent debts),¹⁴ interest,¹⁵ and penalties¹⁶ will accrue beginning from that date. Interest accrues at a minimum annual rate established annually by the United States Treasury in accordance with 31 U.S.C. § 3717.¹⁷ A penalty of six percent (6%) accrues on any portion of the debt that remains unpaid for more than 90 days from the Due Date.¹⁸ However, the Commission will waive payment of the accrued interest, if the full amount of the debt is paid within 30 days of the Due Date.¹⁹ In addition to these charges, the Commission may initiate administrative offset²⁰ and it may refer the delinquent debt to the United States Treasury or the Department of Justice (“DOJ”) for further collection action.²¹ The United States Treasury will impose an additional administrative collection charge,²² and it may also commence administrative offset.²³ An additional surcharge may be imposed, if DOJ initiates judicial action to recover judgment.²⁴ Furthermore, any portion of the debt that is unpaid after the Due Date is a delinquent debt, which will trigger application of the Commission’s red light procedures at 47 C.F.R. § 1.1910.

¹³ As noted at Attachment B, if the 30th day falls on a non-business day, payment must be received on the next business day.

¹⁴ 31 U.S.C. § 3717(e)(1); 47 C.F.R. § 1.1940(c).

¹⁵ 31 U.S.C. § 3717(b); 47 C.F.R. § 1.1940(b).

¹⁶ 31 U.S.C. § 3717(e); 47 C.F.R. § 1.1940(d).

¹⁷ 47 C.F.R. § 1.1940(b).

¹⁸ 31 U.S.C. § 3717(e)(2); 47 C.F.R. § 1.1940(d).

¹⁹ 31 U.S.C. § 3717(d); 47 C.F.R. § 1.1940(g).

²⁰ 47 C.F.R. § 1.1912. Under this provision the Commission may refer the debt to the Treasury for centralized administrative offset whereby, subject to certain exceptions, money otherwise payable to the debtor by the United States government may be used to satisfy the debt. In addition, “unless otherwise prohibited by law,” the Commission may conduct “non-centralized, ad hoc case-by-case offsets when centralized offset is unavailable or inappropriate.” 47 C.F.R. § 1.1912(c).

²¹ 31 U.S.C. §§ 3711(g), 3716; 28 U.S.C. § 3001, *et seq.*; 47 C.F.R. § 1.1912. Transfer may be made without further notice at any time after the Due Date.

²² 31 U.S.C. § 3717(e); 31 C.F.R. § 285.12(j).

²³ 31 U.S.C. § 3716; 47 C.F.R. § 1.1912(b) (mandatory centralized administrative offset).

²⁴ 28 U.S.C. § 3011.

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and section 1.2104(g)(1) of the Commission's rules, 47 C.F.R. § 1.2104(g)(1), American Samoa Telecommunications Authority is ASSESSED a final bid withdrawal payment obligation as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to sections 1.2104 and 1.2106 of the Commission's rules, 47 C.F.R. §§ 1.2104 and 1.2106, American Samoa Telecommunications Authority's interim bid withdrawal payment or funds on deposit will be applied towards the final bid withdrawal payment.

IT IS FURTHER ORDERED that American Samoa Telecommunications Authority's debt of \$205,250.00 is payable in full and without further demand, and it must be paid within 30 days of the date of this Order (the Due Date), in accordance with the payment instructions in Attachment B, and any portion of the debt unpaid after the Due Date is delinquent, and under 31 U.S.C. § 3717, administrative charges, interest, and penalties will accrue.

IT IS FURTHER ORDERED that this Order and a FCC Remittance Advice Form (FCC Form 159, Version 2/03) shall be sent to American Samoa Telecommunications Authority and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Margaret W. Wiener
Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

cc: David Martin, Esq., counsel to ASTCA

Attachments

ATTACHMENT A

Multi-Auction Bid Withdrawal Payment Report

License Number Frequency Block	Withdrawn Gross Bid Auction 71	Withdrawn Net Bid Auction 71	Re-auction Gross Bid Auction 78	Re-auction Net Bid Auction 78	Difference Between Withdrawn Bid Amount and Final Bid Amount in Subsequent Auction (net bids)
CW-BTA492-D	\$149,000.00	\$149,000.00	\$52,000.00	\$52,000.00	\$97,000.00
CW-BTA492-E	\$127,000.00	\$127,000.00	\$52,000.00	\$52,000.00	\$75,000.00
CW-BTA492-F	\$149,000.00	\$149,000.00	\$52,000.00	\$52,000.00	\$97,000.00

Final Bid Withdrawal Payment	\$269,000.00
Less Total of Interim Withdrawal Payment and Amounts on Deposit	\$63,750.00
Outstanding Balance Due on Final Withdrawal Payment	\$205,250.00

ATTACHMENT B

The following information is being provided to assist you in making your payment.

PAYMENT INSTRUCTIONS

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by 6:00 PM Eastern Time, no later than thirty days from the date of the ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 021030004

Receiving Bank: TREAS NYC

33 Liberty Street

New York, NY 10045

BNF: FCC/Account #27000001

OBI Field: (Skip one space between each information item)

"AUCTIONPAY"

APPLICANT FCC REGISTRATION NO. (FRN) (same as FCC Form 159, Block 21)

PAYMENT TYPE CODE (enter "APEN") same as FCC Form 159, Block 24A

FCC CODE 1 (same as FCC Form 159, Block 28A: "71")

PAYOR NAME (same as FCC Form 159, Block 2)

LOCKBOX No.: 979088

A completed FCC Remittance Advice Form (FCC Form 159, Version 2/03) must accompany payments. On the same business day that the applicant submits their wire transfer, the applicant must submit a completed FCC Form 159 via facsimile to U.S. Bank at (314) 418-4232, at least one-hour prior to placing the order for the wire transfer. The specified debt is due and payable to the United States immediately and without demand, and it is subject to interest, penalties, and additional administrative costs. Interest accrues from the date of the ORDER; however, to avoid the payment of charges (i.e., interest, penalties, and administrative costs) and enforced collection, full payment must be made and received within 30 days from the date of the ORDER. Debtor's failure to make complete timely payment will result in assessment of such charges permitted by 31 U.S.C. § 3717.

For questions regarding the submission of payment, and the FCC Form 159, contact Gail Glasser, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578.